

## *State Regulation of Public Utilities Review Committee*

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*Rep. Harry F. Cato, Vice Chairman*  
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May 8, 2006

Members of the South Carolina General Assembly  
South Carolina State House  
Columbia, South Carolina

Dear Fellow Members:

Enclosed is the State Regulation of Public Utilities Review Committee's Report as to Qualifications of Candidates for Seats 2, 4, and 6 of the South Carolina Public Service Commission. The report is designed to assist you in determining how to cast your vote. The Review Committee is charged with the duty to nominate up to three candidates for each seat on the Public Service Commission (Commission). In accordance with this mandate, the Review Committee thoroughly investigated each candidate with respect to his or her suitability for service on the Commission. The Review Committee has found all four candidates to be qualified. A transcript of the oral examination of the four candidates on April 20, 2006, is appended to this report by reference, as required by law. It may be found on the General Assembly's website: [www.scstatehouse.net/html-pages/citizen.html](http://www.scstatehouse.net/html-pages/citizen.html).

The Review Committee's finding that a candidate is qualified and nominated means that the candidate satisfies the constitutional and statutory criteria for service on the Commission and the Review Committee's evaluative criteria. The enclosed report explains the Review Committee's evaluative criteria and details each candidate's qualifications as they relate to the evaluative criteria.

Candidates for the Public Service Commission are prohibited from asking for your commitment until 12:00 noon Wednesday, May 10, 2006. **Members of the General Assembly are not permitted to issue letters of introduction, announcements of candidacy, or statements detailing a candidate's qualifications on behalf of a candidate, and are not permitted to offer a pledge to vote for a candidate until 12:00 noon on May 10, 2006.** If you find a candidate violating the pledging prohibitions or if you have questions about this report, please contact the Review Committee at (803) 212-6625.

Sincerely,

Thomas L. Moore

# **REPORT AS TO THE QUALIFICATIONS OF CANDIDATES FOR SEATS 2, 4, AND 6 OF THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION**

## **INTRODUCTION**

Act No. 175 of 2004 created the State Regulation of Public Utilities Review Committee (Review Committee) and charged the Review Committee with, among other duties, the duty to nominate candidates for the members of the South Carolina Public Service Commission (Commission); the duty to oversee the Commission; and the duty to evaluate the activities and effectiveness of the Commission and individual commissioners. The Review Committee is composed of ten members, six of whom are members of the General Assembly, and four of whom are members of the public.

The Review Committee conducted background investigations of each candidate, including credit and law enforcement checks. It gave a written examination to determine the level of knowledge that each candidate has with respect to substantive public utility issues, ethical constraints applicable to the Commission, and the operations of the Commission. It also sent a survey to Commission employees and persons appearing before the Commission seeking their opinions with respect to the incumbent commissioners' knowledge of public utility issues, their adherence to ethical constraints, their treatment of persons appearing before them, their effect on employee morale, and their understanding of the goals and mission of the agency. The Review Committee also obtained records of attendance at Commission meetings and hearings for the incumbent commissioners. The Review Committee held a public hearing at which all candidates were questioned and given an opportunity to make statements as to their qualifications and desire to serve as a commissioner. A transcript of the oral examination of the four candidates on April 20, 2006, is appended to this report by reference, as required by law. It may be found on the General Assembly's website: [www.scstatehouse.net/html-pages/citizen.html](http://www.scstatehouse.net/html-pages/citizen.html).

## **BACKGROUND**

In the Spring of 2002, after reviewing all candidates for the Public Service Commission, the Joint Legislative Screening Committee (2002 Screening Committee) issued a report to the General Assembly finding: (1) the Commission suffered from a lack of strong leadership; (2) the complexity of many of the issues overwhelmed some of the commissioners; and (3) the Commission failed to articulate and adhere to clear standards of due process and ethical behavior and lacked any enforceable prohibition against inappropriate ex parte communications. The 2002 Screening Committee recommended that the General Assembly consider making long-term structural change to the Commission and in the screening process for commissioners.

Soon after the 2002 Screening Committee issued its report, members of the General Assembly requested the Legislative Audit Council (LAC) to conduct an audit of the Commission. The LAC issued a report and made recommendations to the General Assembly to address the following concerns: (1) maintaining due process and ethics; (2) strengthening qualifications of commissioners; (3) staggering terms so that all commissioners would not be elected at the same time; (4) prohibiting not only legislators, but also their immediate family

members, from being elected as commissioners for four years after the legislator left the General Assembly; and (5) either splitting the Commission into two separate agencies, one comprised of commissioners and an advisory staff, and the other to be comprised of legal and technical persons to represent the public interest, or have the Commission itself create a permanent staff to advise the Commission, in addition to its technical and legal staff, to prevent ex parte communications from occurring between parties and commissioners and their advisors. Act 175 accomplished all of the changes suggested by the 2002 Screening Committee and the LAC.

In its report to the General Assembly, the 2002 Screening Committee stated that at the next screening it would: (1) insist on candidates having clear financial and credit reports prior to the screening process; (2) place substantial emphasis on a candidate's knowledge of Commission operations and hold incumbents to a higher standard; (3) survey Commission staff and parties appearing before the Commission to determine the strengths and weaknesses of individual commissioners; and (4) consider commissioners' attendance records. The PSC Screening Review Committee considered all of the above items in screening the four applicants.

### **LEGAL QUALIFICATIONS**

Act 175 requires that for terms beginning after June 30, 2006, members of the Commission must have the following qualifications:

- (1) a baccalaureate or more advanced degree; and
- (2) a background of substantial duration and an expertise in at least one of the following areas:
  - (a) energy;
  - (b) telecommunications;
  - (c) consumer protection and advocacy;
  - (d) water and wastewater;
  - (e) finance, economics, and statistics;
  - (f) accounting;
  - (g) engineering; or
  - (h) law.

S.C. Code Ann. §58-3-530. Incumbent commissioners are not required to meet the above qualifications. Also, the Review Committee may find a candidate qualified even though he does not have a background of substantial duration and an expertise in at least one of the above areas if three-fourths of the Review Committee vote to qualify the candidate.

The Review Committee is also required to consider: "(1) the ability, dedication, compassion, common sense, and integrity of the candidates; and (2) the race and gender of the candidates and other demographic factors to assure nondiscrimination to the greatest extent possible of all segments of the population of the State." S.C. Code Ann. §58-3-560. The determination of legal qualifications includes a determination of the candidate's residence in the appropriate Public Service Commission district as established by Section 58-3-20, the candidate's eligibility for election as determined by Section 58-3-24, and the candidate's

compliance with constitutional provisions limiting election to those persons eligible to be electors of this State.

### **GENERAL QUALIFICATIONS**

To determine fitness beyond mere legal qualifications, the Review Committee considered each candidate's experience; temperament compliance with and knowledge of legal and ethical constraints on public service; knowledge of Commission operations; demonstrated or potential aptitude for meaningful leadership and/or service at the Commission; and demonstrated integrity, including the handling of personal financial affairs. The Review Committee then considered each candidate as a whole and formulated an overall recommendation.

#### Experience

Act 175 requires that commissioners have a background of substantial duration and an expertise in energy; telecommunications; consumer protection and advocacy; water and wastewater; finance, economics, and statistics; accounting; engineering; or law. The Review Committee considered not only whether a candidate has succeeded in one of these fields but also whether the candidate has the capability of transferring this success and knowledge to the operations of the Commission. Although incumbent commissioners are exempted from this requirement, the Review Committee focused on each incumbent commissioner's success as a commissioner and his or her initiative in gaining experience in a variety of ways, including attendance at public utility seminars and workshops, judicial training, and committee work with national and regional organizations. The transcript appended to this report contains each applicant's background and employment history.

#### Temperament

The Review Committee sought to determine if a candidate's sense of the role he is to fill on the Commission is such that his work will be productive, proactive, and protective of the interests of all South Carolinians.

#### Compliance with and Knowledge of Legal and Ethical Constraints

Act 175 requires that commissioners adhere not only to the State Ethics Act, but also to the Judicial Code of Conduct. The Review Committee believes that not only must the candidates be aware of the legal and ethical constraints, they must have conducted and comported themselves with the highest regard for ethics in their actions.

#### Potential Aptitude for Meaningful Leadership and/or Service at the Public Service Commission

Given the history that led to the enactment of Act 175, the Review Committee considered whether a candidate shows an aptitude for service as a commissioner, whether as a leader or a follower or both. In 2002, the 2002 Screening Committee found that an absence of leadership at

the Commission led to problems such as prohibited ex parte communications, tension between commissioners and staff, and the lack of a coherent agency vision. The Review Committee believes that the Commission should have strong leadership, be working toward common goals, be a positive influence on employees, and ensure that parties and persons appearing before the Commission are treated fairly and impartially. The Review Committee therefore sought to gauge each candidate's potential aptitude to serve as a leader and/or as a commissioner supporting the goals and mission of the agency.

#### Integrity

Candidates must assure the Review Committee that their word is their bond. Particular attention is given to the way candidates have managed their financial affairs.

#### Substantive Knowledge of Commission Operations

The Review Committee believes that every candidate, whether incumbent or non-incumbent, must be required to demonstrate some basic understanding of the role of the Commission and its operations. It would be unfair, however, to require non-incumbents to have accumulated a wealth of knowledge about Commission operations specifically, or regulated utilities generally. Unlike incumbent commissioners, challengers have not had the benefit of a compensated opportunity to educate themselves in hearings or through conversations with Commission staff. The Review Committee expects that incumbents and others who have substantial experience appearing before the Commission should be able to discuss these matters with a greater fluency than those persons who have to date committed themselves to other employment. The Review Committee emphasizes that the substantive knowledge findings contained in this report are a measure of a candidate's knowledge at the time of his candidacy and are not necessarily indicative of a candidate's ability to subsequently master Commission operations and the multitude of issues relating thereto.

#### FINDINGS AS TO QUALIFICATIONS AND NOMINATIONS

The Review Committee **finds all four candidates, David A. Wright (Seat 2), Sidney S. Locke (Seat 2), Elizabeth B. Fleming (Seat 4), and Mignon L. Clyburn (Seat 6), meet the required legal qualifications.** The Review Committee **nominates the following candidates:**

**Seat 2:     Sidney S. Locke  
               David A. Wright**

**Seat 4:     Elizabeth B. Fleming**

**Seat 6:     Mignon L. Clyburn**

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Senator Thomas L. Moore  
Chairman

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Representative Harry F. Cato  
Vice Chairman

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Elizabeth H. Atwater, Esquire

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Erin B. Crawford, Esquire

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Representative Harry L. Ott, Jr.

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Senator Luke A. Rankin, Sr.

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Representative William E. Sandifer III

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John Steven Simmons, Esquire

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Helen T. Zeigler, Esquire

## **CANDIDATES FOR SEAT 2**

### **SIDNEY SEYMOUR LOCKE**

**Address:** 112 Beaver Dam Road  
Columbia, SC 29223

#### **Overall Recommendation:**

Mr. Locke was evaluated as being of **AVERAGE** qualification to serve on the Public Service Commission.

#### **Personal Information, Educational Background, and Work Experience:**

Sidney Seymour Locke was born in Elberton, Georgia, on December 4, 1940. He married Mattie Henrietta Smith Locke on July 4, 1970, and has two adult children. He received a B.S. in Chemistry from the University of Georgia in 1963, a M.Ed. in Science Education from the University of South Carolina in 1975, and a six-year certificate (30 hours beyond a Master's degree) in Science Education from the University of South Carolina in 1980.

Mr. Locke taught Physics and Chemistry at Spring Valley High School from 1972-2001 and was Department Head from 1977-2001. He was a Chemist for E.I. Dupont from 1965 to 1972. He served for two years in the U.S. Army Infantry, achieving the rank of Specialist 4. He was honorably discharged in 1964. He owns a small postage stamp vending business.

#### **Test Score:**

Mr. Locke received an overall score of **56.0**.

#### **General Qualifications:**

- Mr. Locke was evaluated to be of **AVERAGE** experience to serve on the Commission.
- Mr. Locke was evaluated to be of **APPROPRIATE** temperament to serve on the Commission.
- Mr. Locke was evaluated to have **AVERAGE** knowledge of and compliance with legal and ethical constraints regarding service on the Commission.
- Mr. Locke was evaluated as having **AVERAGE** demonstrated or potential aptitude for meaningful leadership and/or service on the Commission.
- Mr. Locke was evaluated as being **ADEQUATE** in demonstrated integrity (including the maintenance of personal financial affairs) for service on the Commission.
- Mr. Locke was evaluated to have **BELOW AVERAGE** substantive knowledge of the operations of the Commission. Mr. Locke acknowledged at the public hearing that he knows "very little about what the commission does, what the mechanism is." Tr. p. 69, ll. 3-5. Mr. Locke has an extensive background in the sciences; however, the Subcommittee has some concerns about his basic understanding of the various ranges of issues before the Commission, the Commission's jurisdictional authority, and the purposes behind the regulation of public utilities.

## DAVID AUSTIN WRIGHT

**Address:** 341 North Stonehedge Drive  
Columbia, SC 29210

### Overall Recommendation:

Mr. Wright was evaluated as being of **ABOVE AVERAGE** qualification to serve on the Public Service Commission.

### Personal Information, Educational Background, and Work Experience:

David Austin Wright was born in Charlotte, North Carolina on July 22, 1955. He married Amy Elizabeth Floyd on November 4, 1995, and is the father of four children, three from a previous marriage. He received a B.A. from Clemson University in 1977, with a major in Political Science and a minor in Communications.

Mr. Wright serves as a member of the Public Service Commission, having been elected March 3, 2004. He is a member of the National and Southeastern Associations of Regulatory Utility Commissioners (NARUC and SEARUC), serves on several subcommittees of NARUC, and is 2<sup>nd</sup> Vice Chairman of SEARUC. He is the sole proprietor of David Wright Communications, a public relations and advertising business. He was a consultant for the S.C. Department of Agriculture from January to July of 2001. He was a lobbyist for the S.C. Association of Manufactured Homes and the S.C. Department of Agriculture in 1999 and for MHS Enterprises in 1998. He was the owner/operator of a Hickory Farms of Ohio franchise in Columbia, S.C. from 1981 to 1992. He was the director of communications for the S.C. Republican Party from 1979 to 1981. He worked in press relations for the Floyd Spence for Congress Committee in 1978. He was an account executive for Wingate Advertising from 1977 to 1978. He has held the following political offices: (1) member of the S.C. House of Representatives, November 1988 to November 1996; (2) mayor of the Town of Irmo, September 1985 to October 1988; and (3) member of the Irmo Town Council, September 1983 to September 1985.

### Test Score:

Mr. Wright received an overall score of **79.1**.

### General Qualifications:

- Mr. Wright was evaluated to be of **OUTSTANDING** experience to serve on the Commission.
- Mr. Wright was evaluated to be of **APPROPRIATE** temperament to serve on the Commission.
- Mr. Wright was evaluated to have **OUTSTANDING** knowledge of and compliance with legal and ethical constraints regarding service on the Commission.
- Mr. Wright was evaluated as having **ABOVE AVERAGE** demonstrated or potential aptitude for meaningful leadership and/or service on the Commission.
- Mr. Wright was evaluated as being **ADEQUATE** in demonstrated integrity (including the maintenance of personal financial affairs) for service on the Commission.
- Mr. Wright was evaluated to have **OUTSTANDING** substantive knowledge of the operations of the Commission.



## **CANDIDATE FOR SEAT 4**

### **ELIZABETH B. FLEMING**

**Address:** 314 Glendalyn Place  
Spartanburg, South Carolina 29302

#### **Overall Recommendation:**

Ms. Fleming was evaluated as being of **ABOVE AVERAGE** qualification to serve on the Public Service Commission.

#### **Personal Information, Educational Background, and Work Experience:**

Elizabeth B. "Lib" Fleming was born November 7, 1942, in Spartanburg, South Carolina. She graduated from Converse College with a B.A. in Sociology in 1965. She married Harold Edward Fleming, MD on August 18, 1961, and is the mother of four children.

She was elected to the Public Service Commission on March 3, 2004, and presently serves on the Public Service Commission representing the 4<sup>th</sup> Congressional District. Ms. Fleming worked as a program director with Head Start in 1967 and with the Federal government on the Walker River Indian Reservation in Schurz, Nevada. She served on Spartanburg City Council from 1994 to 2004. She is a member of numerous professional and community service organizations, including the National and Southeastern Associations of Regulatory Utility Commissioners (NARUC and SEARUC), and serves on several subcommittees of NARUC.

#### **Test Score:**

Ms. Fleming received an overall score of **71.9**.

#### **General Qualifications:**

- Ms. Fleming was evaluated to be of **OUTSTANDING** experience to serve on the Commission.
- Ms. Fleming was evaluated to be of **APPROPRIATE** temperament to serve on the Commission.
- Ms. Fleming was evaluated to have **OUTSTANDING** knowledge of and compliance with legal and ethical constraints regarding service on the Commission.
- Ms. Fleming was evaluated as having **OUTSTANDING** potential aptitude for meaningful leadership and/or service on the Commission.
- Ms. Fleming was evaluated as being **ADEQUATE** in demonstrating integrity (including the maintenance of personal financial affairs) for service on the Commission.
- Ms. Fleming was evaluated to have **ABOVE AVERAGE** substantive knowledge of the operations of the Commission.

## **CANDIDATE FOR SEAT 6**

### **MIGNON L. CLYBURN**

**Address:** 16 Darlington Avenue  
Charleston, South Carolina 29403

#### **Overall Recommendation:**

Ms. Clyburn was evaluated as being of **ABOVE AVERAGE** qualification to serve on the Public Service Commission.

#### **Personal Information, Educational Background, and Work Experience:**

Mignon Leticia Clyburn was born on March 22, 1962, in Charleston, South Carolina. She is single. She graduated from Keenan High School in 1980 and received a Bachelor of Science degree in Business Administration from the University of South Carolina in 1984.

Ms. Clyburn presently serves on the Public Service Commission representing the 6<sup>th</sup> Congressional District. Prior to being elected to the Public Service Commission in 1998, she was editor and general manager of a weekly newspaper, the Coastal Times. She held that position from 1984-1998. She is also an officer in Indigo Holdings (which is engaged in single dwelling real estate investments). Ms. Clyburn is a member of the National and Southeastern Associations of Regulatory Utility Commissioners (NARUC and SEARUC) and serves on several subcommittees of NARUC.

#### **Test Score:**

Ms. Clyburn received an overall score of **76.7**.

#### **General Qualifications:**

- Ms. Clyburn was evaluated as having **OUTSTANDING** experience to serve on the Commission.
- Ms. Clyburn was evaluated to be of **APPROPRIATE** temperament to serve on the Commission.
- Ms. Clyburn was evaluated to have **OUTSTANDING** knowledge of and compliance with legal and ethical constraints regarding service on the Commission.
- Ms. Clyburn was evaluated as having **OUTSTANDING** potential aptitude for meaningful leadership and/or service on the Commission.
- Ms. Clyburn was evaluated as being **ADEQUATE** in demonstrating integrity (including the maintenance of personal financial affairs) for service on the Commission.
- Ms. Clyburn was evaluated to have **ABOVE AVERAGE** substantive knowledge of the operations of the Commission.